

HAILEY ORDINANCE NO. 1013

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING THE HAILEY MUNICIPAL CODE, ADDING A NEW CHAPTER 2.36 TO ESTABLISH A HAILEY TREE COMMITTEE AND POLICIES, REGULATIONS AND STANDARDS FOR THE HAILEY TREE COMMITTEE; ADDING A NEW CHAPTER 2.20 TO ESTABLISH A HAILEY TREE ORDINANCE AND RULES, REGULATIONS AND STANDARDS FOR PUBLIC TREES AND CERTAIN PRIVATE TREES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Mayor and the City Council of the City of Hailey have adopted the City of Hailey Parks, Lands & Trails Master Plan, Standards & Guidelines (“Master Plan”), which promotes diverse recreation opportunities within walking distance for the greatest number of residents of Hailey;

WHEREAS, the Master Plan recognizes that our trees, which make up our community forest, are an asset and contribute to reduced energy and maintenance costs, while making the community a more pleasant place to live and work; and

WHEREAS, in order to promote the health, safety and welfare of the general public, the Mayor and the City Council of the City of Hailey desire to ensure that our community forest is maintained and improved in a manner that ensures it is protected for future generations;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAILEY, IDAHO:

Section 1. Title 2 of the Hailey Municipal Code is amended by the addition a new Chapter 2.36, as follows:

Chapter 2.36

HAILEY TREE COMMITTEE

2.36.010 Purpose. It is the purpose of this ordinance to establish a Hailey Tree Committee to promote sound arboricultural practices and tree diversity and to promote public education of proper tree care practices.

2.36.020 Establishment. The Hailey Tree Committee is hereby established. The Hailey Tree Committee shall consist of five (5) voting members. Each member shall be appointed by the Mayor and approved by the City Council, shall have been a resident of Blaine County for two (2) years prior to appointment to the Hailey Tree Committee and shall be a resident of the City of Hailey at the time of appointment, except that one (1) member may reside outside the corporate limits of the City of Hailey, but within the City's Area of Impact. Each member must remain a resident of the City, or, in the case of the City's Area of Impact, within the impact area, during the term of his or her membership on the Hailey

Tree Committee. Each member shall serve for a term of three (3) years. The terms shall be staggered and shall be filled in the same manner as original appointments, but replacements shall serve only until the expiration of the original term. The initial appointment term shall be one year for one member, two years for two members and three years for two members. Thereafter, appointments shall be for a term of three years or until a successor is appointed. The Hailey Tree Committee shall elect officers from among the members of the Hailey Tree Committee. The chairperson shall preside at meetings of the Hailey Tree Committee. The vice chairperson shall, in the absence of the chairperson, perform the duties of the chairperson. All meetings of the Hailey Tree Committee shall be open to the public, and follow the requirements of Idaho's open meeting laws. The Hailey Tree Committee shall keep minutes and other appropriate written records of its resolutions, proceedings, and actions. All public hearings shall be conducted following public hearing procedures contained in Chapter 2.04 of the Hailey Municipal Code.

2.36.030 Recommending Body. The Hailey Tree Committee shall have no authority to bind any governing body affected by planning decisions. However, the Hailey Tree Committee shall have the power to make recommendations, upon a majority vote of its attending members, to the City Council, the Hailey Planning and Zoning Commission, the Hailey Historic Preservation Commission, and the Hailey Parks and Lands Board or other similar commissions or boards.

2.36.040 Powers and Duties.

A. Unless otherwise provided by law, the Hailey Tree Committee shall have the power to make whatever rules are necessary for the execution of its duties as set forth in this Ordinance. Rules of procedure and bylaws adopted by the Committee shall be available for public inspection. The Committee shall meet a minimum of four times a year.

B. The Hailey Tree Committee shall perform any and all of its obligations under Chapter 12.20 of the Hailey Municipal Code.

C. The Hailey Tree Committee shall draft and recommend necessary amendments to Chapter 12.20 of the Hailey Municipal Code. The Committee shall also create, draft and recommend a City of Hailey Urban Forestry Plan ("Forestry Plan") to the City Council. The Forestry Plan shall contain provisions for notice to adjacent property owners, who will be granted a right to comment on the planting, removal and maintenance of Public Trees. Should the Forestry Plan be accepted and codified by the Council, the Committee shall draft and recommend necessary amendments to those documents. The Forestry Plan shall be reviewed on a five-year basis.

D. The Hailey Tree Committee shall create, draft and recommend policy and implementation of policy concerning selection, planting, maintenance, and removal of trees, shrubs and other plants in the city.

E. The Hailey Tree Committee shall recommend the allocation of funds for the implementation of Chapter 12.20 of the Hailey Municipal Code, for the establishment of educational and informational programs, and for the development of policies and procedures regarding the city duties.

F. The Committee shall establish criteria for licensing to contractors and others for the removal and maintenance of Public Trees within the City of Hailey.

G. The Committee shall keep the City of Hailey apprised of its activities.

2.36.050 Conflict of Interest. Each member of the Hailey Tree Committee shall be governed by the Ethics in Government Act, Idaho Code §§ 59-701 *et seq.*, as amended.

Section 2. Title 2 of the Hailey Municipal Code is amended by the addition a new Chapter 12.20, as follows:

Chapter 12.20

HAILEY TREE ORDINANCE

12,20.010 Purpose. The purpose of this ordinance is to establish policies, regulations, standards and guidelines necessary to ensure that the City of Hailey will continue to realize the benefits of its community forest. The provisions of this ordinance are enacted to:

- A. Plan maintenance of city trees with sound arboricultural practices and encourage tree diversity based on the Forestry Plan; and
- B. Promote public education of proper tree care practices.

12,20.020 Definitions. For purposes of this Ordinance, the following words and phrases shall have the following meanings, unless another meaning is plainly intended:

“City of Hailey Urban Forestry Plan” or “Forestry Plan” shall mean that plan recommended by the Hailey Tree Committee and adopted by the Hailey City Council, pursuant to Section 2.36.040 of the Hailey Municipal Code.

“Flush Cut” shall mean cutting within the branch bark collar or ridge of a branch when pruning.

“Hailey Tree Committee” shall mean that committee established pursuant to Chapter 2.36 of the Hailey Municipal Code.

“Private Tree” shall mean any Tree, Shrub or other woody vegetation not on Public Property.

“Public Property” shall mean property owned by the City of Hailey, or a public right-of-way dedicated to the public, or a public easement. Public Property includes but is not limited to public streets, alleys and public parks.

“Public Tree” shall mean any Tree, Shrub or other woody vegetation whose trunk is located wholly or partially on Public Property. The term “Public Tree” includes Street Trees.

“Shrub” shall mean a perennial, multiple stemmed woody plant often formed by a number of vertical or semi-upright branches arising from close or at ground level, where any branch is located wholly or partially on Public Property, and whose height at maturity is usually between three and fifteen feet and.

“Street Tree” shall mean any Tree, Shrub, or other woody vegetation on lands within City of Hailey street rights-of-way.

“Top” shall mean the act of lopping, rounding over or leaving long branch stubs when pruning, not pruning to an auxiliary branch.

“Tree” shall mean a woody perennial plant.

12.20.030 Public Trees.

12.20.030.01 No person, firm or legal entity shall plant, prune or remove any Public Tree without first obtaining an encroachment permit from the City of Hailey. All such permit applications shall be reviewed by the Hailey Tree Committee. The city may grant a permit or conditionally grant a permit only when such is consistent with provisions of this Chapter and/or other applicable laws or standards.

12.20.030.02 No person, firm or legal entity shall abuse, poison or mutilate any Public Tree, plant or Shrub or the root of any Public Tree, plant or Shrub, unless allowed pursuant to an encroachment permit issued under this Chapter.

12.20.030.03 No person, firm or legal entity shall Top any Public Tree or to Flush Cut any branch on Public Trees, unless allowed pursuant to an encroachment permit issued under this Chapter.

12.20.030.04 Any person, firm or legal entity contracting for the maintenance, removal or planting of Public Trees must enter into a contract for services with the City of Hailey. The contract shall be revocable for cause. Any person or entity must provide security in accordance with Section 12.16.080 of the Hailey Municipal Code.

12.20.030.05 Any utility company shall, upon review, be granted a yearly permit that allows work on Street Trees. Permits shall be subject to the following restrictions:

A. Work done on Public Trees and roots must meet the standards and practices as stated in the Forestry Plan.

B. The person or entity must provide security in accordance with Section 12.16.080 of the Hailey Municipal Code.

12.20.030.06 Owners of property adjacent to a Street Tree shall notify the City of Hailey if they are unable to ensure adequate maintenance for that Street Tree. Adequate maintenance shall include sufficient water, mulching young trees, and protection from compaction or injury by vehicles or other causes.

12.20.040 Exclusion. The City of Hailey has the right to plant, maintain, and remove any Public Tree or Shrub in order to promote public safety or to promote or implement the Forestry Plan.

12.20.050 Private Trees.

12.20.050.01 Each private property owner shall maintain any Tree or shrub on their real property, regardless whether the trunk of a Tree or any branch of a shrub is partially on Public Property, so that such Trees or shrubs do not endanger the public or become hazardous to any public street, alley or other public right-of-way, public utilities or other Public Property, consistent with provisions of this Ordinance and/or other applicable laws or standards.

12.20.050.02 Upon the discovery of a serious epidemic disease or pest in any Tree, the City of Hailey shall serve notice upon the owner of the Tree, whose trunk is located wholly or partially on private property, which shall require that owner to eradicate, remove or otherwise control such conditions within a given timeframe.

12.20.060 Enforcement.

12.20.60.01 Any person, firm or legal entity violating any provisions of this Chapter shall be guilty of a misdemeanor which shall be punishable by a maximum fine of \$300.00 or thirty (30) days in jail or both such fine and imprisonment.

12.20.060.02 In addition to the penalties set forth in Section 12.20.060.01, above, any person, firm or legal entity whose actions cause damage to or the destruction of a Public Tree shall be liable to the City of Hailey for the value of the Public Tree and all costs incurred by the City of Hailey in caring for, treating, pruning, removing and/or replacing the Public Tree.

Section 3. If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

Section 4. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 5. This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

**PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED
BY THE MAYOR THIS ____ DAY OF AUGUST, 2008.**

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk